



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150298

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 06, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective July 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Paul Fredrickson
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On April 5, 2013, the Petitioner contacted the agency to update her agency and rent expense. Her rent expense increased to \$725/month. As a result of the increase in rent, the Petitioner's FS benefits increased to \$200/month effective May, 2013.

3. On June 12, 2013, during a renewal interview, the Petitioner reported that her rent expense decreased to \$182/month. Petitioner confirmed that she receives \$710/month in Social Security benefits and \$83.78/month in state supplemental benefits. She also pays utility expenses.
4. A Notice of Decision was issued in June, 2013 to the Petitioner informing her that her FS benefits would be \$97/month effective July 1, 2013.
5. On June 25, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$149 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the agency to demonstrate that it correctly computed the Petitioner's FS allotments, and the Petitioner must then rebut this evidence with her own evidence showing the agency was incorrect.

In this case, the Petitioner's income is not disputed. In addition, the Petitioner's rent is not disputed. However, the Petitioner testified that she is currently paying a reduced rent of \$182/month because the landlord agreed to temporarily reduce her rent during her recovery from surgery. She testified that from June, 2013 – November 1, 2013, she will be paying \$182/month. After November, her rent will return to \$725/month plus she will be responsible for repaying the \$543/month difference (\$725 - \$182). The worker indicated that the agency considers the amount that is actually paid in a month in determining benefits. The Petitioner was advised that she should report to the agency in October that her rent will increase so that the agency can make a new determination of FS benefits as soon as she begins to pay the increased rent.

The Petitioner also brought in numerous medical bills on the day of the hearing. These bills had not been previously reported to the agency for consideration as a deduction. Because they are bills that the agency has not seen or reviewed, I am not considering the bills in determining whether the agency properly allotted July FS benefits. Rather, the agency worker took copies of the bills at the hearing. The Petitioner was advised that the agency will review the bills and make a new determination of FS benefits effective August 1, 2013. The Petitioner was advised that she will receive notice of this from the agency with new appeal rights and that if she does not agree with this new determination, she should file another appeal.

I reviewed the agency budget screens for its determination effective July 1, 2013 and find that the agency properly determined the Petitioner's benefits effective July 1, 2013.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits effective July 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of August, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 12, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability